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STATE OF CALIFORNIA -- THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

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Staff: LKF-V
Staff Report: 9/18/03
Hearing Date: 10/7-10/10/03

STAFF REPORT: APPEAL
DE NOVO REVIEW

LOCAL GOVERNMENT: City of Carpinteria

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A-4-CPN-03-016

APPLICANT: Louis Carnevale

AGENT: Jan Hochhauser

APPELLANT: Carpinteria Creek Foundation

PROJECT LOCATION: Corner of Carpinteria Avenue, Arbol Verde Street and Concha Loma Drive in the City of Carpinteria, Santa Barbara County.

PROJECT DESCRIPTION: Construction of a two-story 1,695 sq. ft. single family home with attached 512 sq. ft. garage/workshop, porch, driveway, split-rail fence, garden wall, sidewalk, drainage structures, vegetated bio-swale, restoration of riparian habitat, and 464 cu. yds. of grading (308 cu. yds. cut, 156 cu. yds. fill).

SUBSTANTIVE FILE DOCUMENTS: City of Carpinteria Local Coastal Program, Final Environmental Impact Report, Carnevale Duplex Project, May 2002; Draft Environmental Impact Report, Carnevale Duplex Project, February 2002; City of Carpinteria Final Development Plan 99-881-DP/CDP (City Council Approval dated January 27, 2003); Memorandum from John Dixon, Ph.D., Staff Ecologist to Lillian Ford, re: Habitat Buffer at Carnevale Property, May 8, 2003.

SUMMARY OF STAFF RECOMMENDATION

The Commission found that this appeal raised substantial issue at its June 13, 2003 hearing. Staff recommends that the Commission approve the proposed project with ten (10) special conditions regarding conformance with geologic recommendations, landscaping and erosion control plans, restoration/revegetation plan, drainage and polluted runoff control plan, removal of excess graded material, assumption of risk, lighting restrictions, future development restriction, deed restriction, and the incorporation of the City of Carpinteria's conditions of approval. As conditioned, adverse impacts to coastal resources will be minimized, consistent with the applicable policies of the City of Carpinteria's Local Coastal Program (LCP).

I. STAFF RECOMMENDATION

MOTION: ***I move that the Commission approve Coastal Development Permit No. A-4-CPN-03-016 pursuant to the staff recommendation.***

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified Local Coastal Program for the City of Carpinteria and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendations

All recommendations contained in the report prepared by Pacific Materials Laboratory ("Preliminary Foundation Investigation," Pacific Materials Laboratory, November 15, 1999) shall be incorporated into all final design and construction including foundations, grading, drainage, and additional investigations. Final plans must be reviewed and approved by the project's consulting geotechnical engineer. Prior to the issuance of the Coastal Development Permit, the applicants shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require an amendment to the permit or a new Coastal Development Permit.

2. Landscaping and Erosion Control Plans

Prior to issuance of the Coastal Development Permit, the applicants shall submit landscaping and erosion control plans prepared by a licensed landscape architect or qualified resource specialist for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting geologist to ensure that the plans are in conformance with the consultant's recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native, drought resistant plants, consistent with the Restoration/Revegetation Plan submitted pursuant to **Special Condtiion Three (3)** of this permit. Invasive, non-indigenous plant species that tend to supplant native species shall not be used.

2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species consistent with the Restoration/Revegetation Plan submitted pursuant to **Special Condition Three (3)** of this permit. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

4) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

5) The Permittees shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the Coastal Development Permit, unless the Executive Director

determines that no amendment is required. The final plan shall be consistent with the restoration/revegetation plan required by **Special Condition Four (4)** below.

6) The use of insecticides, herbicides, or any toxic chemical substance for landscaping maintenance shall be prohibited, except for the purpose of eradicating invasive plant species, where no less environmentally damaging method exists.

B) Interim Erosion Control Plan

1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.

2) The plan shall specify that should excavation or grading take place during the rainy season (November 1 – March 31), the applicants shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.

3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles, mats, sand bag barriers, and/or silt fencing; and temporary drains, swales, and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Monitoring

Five years from the date of the receipt of the certificate of occupancy for the residence, the applicants shall submit, for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed landscape architect or qualified resource specialist that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicants (or successors in interest) shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed landscape architect or qualified resource specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

3. Restoration / Revegetation Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final restoration plans. The plan shall include a landscaping and erosion control plan prepared by a qualified habitat restoration consultant. The landscaping and erosion control plan shall make use of no permanent irrigation systems. The landscaping and erosion control plan shall be reviewed and approved by the consulting civil and geotechnical engineers to ensure that the plan is in conformance with the applicable recommendations regarding slope stability. The restoration and revegetation plan shall include, but not be limited to, the following criteria:

(a) A revegetation program, prepared by a qualified habitat restoration consultant, that utilizes only native riparian plant species that are consistent with the surrounding native plant community. The plan shall specify the preferable time of year to carry out the restoration and describe the supplemental watering requirements that will be necessary, including a detailed irrigation plan. The plan shall also specify performance standards to judge the success of the restoration effort. The revegetation plan shall identify the species, location, and extent of all plant materials and shall use a mixture of seeds and container plants to increase the potential for successful revegetation. The plan shall include a description of technical and performance standards to ensure the successful revegetation of the restored slope. A temporary irrigation system may be used until the plants are established, as determined by the habitat restoration consultant, and as approved by the consulting civil and geotechnical engineers, but in no case shall the irrigation system be in place longer than two (2) years.

(b) The restoration plan shall be implemented within three hundred and sixty (360) days of the issuance of this permit. Revegetation shall provide ninety percent (90%) coverage within five (5) years and shall be repeated, if necessary, to provide such coverage. The Executive Director may extend this time period for good cause. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the revegetation requirements.

(c) A monitoring program, prepared by a qualified environmental resource specialist. The monitoring program shall demonstrate how the approved revegetation and restoration performance standards prepared pursuant to section (b) above shall be implemented and evaluated for compliance with this Special Condition. The program shall require the applicant to submit, on an annual basis for a period of five years (no later than December 31st each year), a written report, for the review and approval of the Executive Director, prepared by an environmental resource specialist, indicating the success or failure of the restoration project. The annual reports shall include further recommendations and requirements for additional restoration activities in order for the project to meet the criteria and performance standards listed in the restoration plan. These reports shall also include photographs taken from pre-designated locations (annotated to a copy of the site plans) indicating the progress of recovery. During the monitoring period, all artificial inputs shall be removed except for the purposes of providing mid-course corrections or maintenance to ensure the long-term survival of the plantings. If these inputs are required beyond the first four (4) years, then the monitoring program shall be extended for a sufficient length of time so that the success

and sustainability of the project is ensured. Successful site restoration shall be determined if the revegetation of native plant species on-site is adequate to provide ninety percent (90%) coverage by the end of the five (5) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation.

(d) At the end of the five year period, a final detailed report shall be submitted, for the review and approval of the Executive Director, that indicates whether the on-site landscaping is in conformance with the revegetation / restoration plan approved pursuant to this Special Condition. The final report shall include photographic documentation of plant species and plant coverage. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the approved performance standards, the applicant shall be required to submit a revised or supplemental restoration program to compensate for those portions of the original plan that were not successful. The revised, or supplemental, restoration program shall be processed as an amendment to this Coastal Development Permit.

4. Drainage and Polluted Runoff Control Plan

Prior to issuance of the Coastal Development Permit, the applicants shall submit, for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with engineering geologist's recommendations. In addition to the above specifications, the plan shall be in substantial conformance with the following requirements:

(a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate, or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, one (1) hour runoff event, with an appropriate safety factor, for flow-based BMPs.

(b) Runoff shall be conveyed off site in a non-erosive manner.

(c) Energy dissipating measures shall be installed at the terminus of outflow drains.

(d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned, and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage, filtration structures, or other BMPs fail or result in increased erosion, the applicants, landowner, or successor-in-interest shall be responsible for any necessary repairs to the drainage, filtration system, and BMPs and restoration of any eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new Coastal Development Permit is required to authorize such work.

5. Removal of Excess Graded Material

The applicant shall remove all excess graded material to an appropriate disposal site located outside of the Coastal Zone. Prior to the issuance of the coastal development permit, the applicants shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

6. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from liquefaction, earthquake, erosion, flooding, and wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

7. Lighting Restrictions

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
3. The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60-watt incandescent bulb.

B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

8. Future Development Restriction

This permit is only for the development described in coastal development permit A-4-CPN-03-016. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by coastal development permit A-4-CPN-03-016. Accordingly, any future

improvements to the single family residence authorized by this permit, shall require an amendment to Permit A-4-CPN-03-016 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

9. Deed Restriction

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, , modification, or amendment thereof, remains in existence on or with respect to the subject property.

10. City of Carpinteria's Conditions

The applicant shall comply with all of the City's conditions attached to the City of Carpinteria approval of 99-881-DP/CDP as shown in **Exhibit 1, sub-exhibit 2**. Prior to the issuance of Coastal Development Permit A-4-CPN-03-016, the applicant shall submit evidence of such condition compliance for the review and approval of the Executive Director. Should any conflict arise between the City's conditions of approval and Special Conditions 1 – 9 set forth above, Special Conditions 1 – 9 shall prevail and shall supercede the conflicting requirement(s) of the City's condition(s).

The Permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans as described in this staff report shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a two-story 1,695 sq. ft. single family home with attached 512 sq. ft. garage/workshop, porch, driveway, 40 foot long split-rail fence, 176 foot long, maximum two foot high garden wall, five foot wide sidewalk, drainage structures, vegetated bio-swale, restoration of riparian habitat, and 464 cu. yds. of grading (308 cu. yds. cut, 156 cu. yds.

fill) **(Exhibit1, sub-exhibits 4 - 8)**. The footprint of the residence, including driveway and porch (but excluding landscaping, fence, wall, sidewalk, and drainage structures) is 2,914 sq. ft. (.07 acre, or 15% of the total parcel).

The project site is a 0.45 acre parcel located south of Carpinteria Avenue at the entrance to the Concha Loma residential neighborhood. The parcel is bisected by Carpinteria Creek, which gently descends through the property in a southwesterly direction. The eastern portion of the parcel is nearly level and contains disturbed ruderal grassland and some non-native trees along Arbol Verde Street. West of this area, the site slopes gently toward the southeastern bank of the creek and the creek bed below.

The sloping area and southeastern bank of the creek contains riparian woodland habitat, including mature stands of California Sycamore (*Platanus racemosa)* and Arroyo Willow (*Salix lasiolepis*). The woodland understory is disturbed and contains many non-native species. The creek and riparian woodland is home to special status wildlife, including Steelhead trout (*Oncorhyncus mykiss*), Tidewater goby (*Eucyclogobius newberryi*), Monarch butterfly (*Danaus plexippus*), and Cooper's hawk (*Accipiter cooperii*). The riparian canopy extends past the top of bank an average of approximately 50 feet, although portions of the woodland extend as little as 2 feet and as much as 80 feet. Carpinteria Creek and the surrounding riparian habitat is designated Environmentally Sensitive Habitat Area (ESHA). The remainder of the parcel consists of disturbed ruderal grassland. An informal footpath crosses the property, and is used as a "shortcut" from Carpinteria Avenue to a dirt flood control access way that leads to the creek bottom in the southwestern portion of the site.

The parcel is zoned Planned Residential Development (PRD-15) in the City's certified Local Coastal Program (LCP). The PRD-15 zone designation allows for a maximum of 15 units per acre or 1 unit per 2,904 sq. ft. of gross land area, which would allow a base buildout of 6 units. The site is also located within the Environmentally Sensitive Habitat Area (ESH) Overlay District, which requires a minimum 20 foot buffer strip from the top of stream banks and limits development within stream corridors to projects whose primary purpose is improvement of fish and wildlife habitat, flood control, bridges, and pipelines where no alternative route is feasible. In addition, the site is located within the 100-year floodplain of Carpinteria Creek, and has been designed to meet applicable design and finished floor elevation standards.

The project applicant unsuccessfully pursued City approval for two previous development proposals for the site, including a 1988 proposal to construct an approximately 6,000 sq. ft. mixed use building, and a 1990 proposal to build an approximately 7,700 sq. ft. three-unit condominium. Both of the proposals would have required clearance of riparian habitat and channelization of the creek bank. The parcel has also been the subject of a campaign to preserve the site as a public park. In 1995, community members, including the Concha Loma / Arbol Verde neighborhood and the Carpinteria Creek Committee, petitioned the City to acquire the site for a public park, and by 1999, when the current proposal was submitted, had raised approximately $46,000 dollars towards the purchase price of the property.

In June 1999, the applicant submitted a proposal to the City of Carpinteria to build an approximately 3,500 sq. ft. duplex on the subject site. A Mitigated Negative Declaration (MND) was prepared for the project and as a result the project was reduced to incorporate mitigation measures, including a 10 foot setback from the riparian habitat (excluding the willow copse). Upon review of the MND, the Planning Commission determined that preparation of a full EIR was necessary to evaluate the environmental impacts of the proposed project. A Draft EIR was published in February 2002, and a Final EIR in May 2002. The Final EIR was certified by the

Planning Commission in July 2002. To comply with additional mitigation measures provided in the Final EIR, the applicant further reduced the project to allow for a 20 foot setback from the riparian dripline, as shown in the Final EIR. The applicant abandoned the duplex proposal and instead proposed construction of a 2,207 sq. ft. single family residence.

On November 4, 2002, the City of Carpinteria Planning Commission approved a Development Plan for the construction of the Carnevale Residential Project as described in this report. The Planning Commission's decision was appealed to the Carpinteria City Council by the Carpinteria Creek Foundation. On January 27, 2003, the City Council granted the appeal for the limited purpose of modifying an addendum to the project Final EIR, adopting additional findings, and adding a condition of approval to prohibit hard banking of the creek on the property. The City Council denied the remainder of the appeal and approved the project via Resolution No. 4771. The resolution and conditions of approval are attached as **Exhibit 1, sub-exhibit 2**.

Standard of Review

On August 6, 2002 the Commission approved an amendment for an updated Land Use Plan for the City of Carpinteria LCP. The amendment was certified by the Commission on April 10, 2003. Although many of the LUP policies became effective upon certification, many others, including those concerning protection of creek corridors, will only become effective once necessary amendments are made to the City's Implementation Program (IP). In this case, the applicable policies are those included in the previously certified City of Carpinteria LCP (as certified on January 22, 1980 and subsequently amended). Conversely, many of the policies included in the previously certified City of Carpinteria LCP have been superceded by the new policies that became effective upon recent Commission certification of the LUP amendment. Thus the standard of review for the proposed project includes policies from both the previously certified City of Carpinteria LCP and the recent LUP update. These policies are listed at the beginning of Sections B through E below.

B. Hazards and Geologic Stability

The proposed development is located on the 100-year flood plain of Carpinteria Creek, and in an area of the City of Carpinteria that is subject to seismically induced hazards and fire. In addition, the proposed project site contains the steep southeastern bank of Carpinteria Creek, which is vulnerable to erosion. The City of Carpinteria Local Coastal Program (LCP) contains the following development policies related to hazards that are applicable to the proposed development:

Section 30253 of the Coastal Act, which is incorporated as part of the Carpinteria LCP, states in pertinent part that new development shall:

> ***(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
>
> ***(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

In addition, the following LUP policies are applicable in this case:

3-8 ***Applications for grading and building permits, and applications for subdivision shall be reviewed for adjacency to threats from, and impact of geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, or other hazards such as expansive soils and subsidence areas. In areas of known geologic hazards, a geologic report may be required. Mitigation measures shall be applied where necessary.***

3-14 ***All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural landforms and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development as evidenced by competent soils, geology, and hydrology investigation and reports shall remain in open space.***

3-15 ***For necessary grading operations, the smallest practical area of land shall be exposed at any one time during the development phase, and the length of exposure shall be kept to the shortest practicable amount of time. The clearing of land shall be avoided during the winter rainy season and all measures for removing sediments and stabilizing slopes shall be in place before the beginning of the rainy season.***

3-16 ***Sediment basins (including debris basins, desilting basins, or silt traps) shall be required in conjunction with the initial grading operations and maintained throughout the development process. All sediment shall be retained on site unless removed to an appropriate disposal location.***

3-17 ***Temporary vegetation, seeding, mulching, or other suitable stabilization method shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes in a completed development shall be stabilized immediately with planting of native annual grasses and shrubs, or appropriate non-native plants with accepted landscaping practices.***

3-18 ***Provision shall be made to conduct surface runoff waters that will occur as a result of development to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development.***

OSC-6f ***Carry out and maintain all permitted construction and grading within stream corridors in such a manner so as to minimize impacts on biological resources and water quality such as increased runoff, creek bank erosion, sedimentation, biochemical degradation, or thermal pollution.***

S-1 ***Minimize the potential risks and reduce the loss of life, property and the economic and social dislocations resulting from earthquake (rupture or shaking) and liquefaction in the planning area and from seismically-induced tsunamis.***

S-4 ***Minimize the potential risks and reduce the loss of life, property and the economic and social dislocations resulting from flooding.***

S-4a ***All new development proposed in the 100-year floodplain must adhere to the County of Santa Barbara Floodplain Management Ordinance, Chapter 15-A of the County Code.***

S-4, IM10 ***Compliance with the City's Floodplain Management Measures will be required prior to issuance of building permits for any type of individual development project proposed in the 100-year floodplain.***

S-5 ***Minimize the potential risks and reduce the loss of life, property and the economic and social dislocations resulting from urban and wildland fires.***

S-5a ***All new structures must adhere to the Carpinteria-Summerland Fire Protection District Ordinance and the Santa Barbara County Fire Department Ordinances, where applicable.***

S-5b ***All new structures, whether inside or outside the urban limit zone, must adhere to the city Fire Sprinkler Ordinance.***

The Carpinteria LCP requires that new development be sited and designed to minimize risks to life and property from geologic, flood, and fire hazards. In addition, the LCP includes measures to prevent erosion that may be caused by development.

As noted above, the proposed project site is subject to flood, fire, and geologic hazards. In accordance with Policy 3.8 of the Carpinteria LCP, the applicant has submitted a geologic report on the site ("Preliminary Foundation Investigation," Pacific Materials Laboratory, November 15, 1999). The report indicates that the site is subject to liquefaction and recommends that final grading and foundation plans reflect a detailed evaluation of the liquefaction potential. The report provides an interim recommendation that the structure be founded on deep piles.

In discussing the use of deep pile foundations, the report concludes:

> ***Such construction is common and will mitigate the liquefaction potential, therefore, feasibility of developing this site from a geotechnical engineering standpoint is favorable.***

Therefore, based on the recommendations of the applicant's geologic consultants, the proposed development is consistent with the geologic safety requirements of the Carpinteria LCP, so long as the geologic consultant's recommendations are incorporated into the final project plans and designs. Therefore, it is necessary to require the applicant to submit final project plans that have been certified in writing by the geologic consultant as conforming to all recommendations of the consultant, in accordance with **Special Condition One (1)**.

As noted above, the proposed project site is also subject to hazards from flood and fire. The City of Carpinteria has found that the proposed project meets all flood control standards, and has included, as conditions of local approval, requirements to ensure that the project complies with all applicable fire safety ordinances.

However, the Commission recognizes that development, even as designed and constructed to incorporate all recommendations of the geologic consultants, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of erosion, liquefaction, flooding, earthquake, and fire, the applicants shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicants to waive any claim of liability against the Commission, its employees, and agents, for damage to life or property that may occur as a result of the permitted development. The applicants' assumption of risk, as required by **Special Condition Six (6)**, when executed and recorded on the property deed, will show that the applicants are aware of and appreciate the nature of the hazards associated with development of the site, and that may adversely affect the stability or safety of the proposed development.

For these reasons, therefore, the Commission finds that as conditioned by **Special Condition One (1)** and **Special Condition Six (6)**, the proposed project is consistent with the Carpinteria LCP's policies for the minimization of risks resulting from hazards.

Erosion

The Carpinteria LCP contains policies for the prevention of erosion that may be caused by development. As noted above, the project site is bisected by Carpinteria Creek, and includes the creek's steep southeastern bank as well as more gentle slopes above the bank. Drainage from the site flows down the bank, as well as down a rough flood control access path that traverses the bank, into the creek.

As noted above, the applicant proposes to construct a two-story, 1,695 sq. ft. single family home with attached 512 sq. ft. garage/workshop, porch, driveway, split-rail fence, garden wall, sidewalk, drainage structures, vegetated bio-swale, restoration of riparian habitat, and 464 cu. yds. of grading (308 cu. yds. cut, 156 cu. yds. fill). In total, the project will result in additional impervious surface area on the site, increasing both the volume and velocity of storm water runoff. Unless surface water is controlled and conveyed off of the site in a non-erosive manner, this runoff will result in increased erosion on and off the site.

Uncontrolled erosion leads to sediment pollution of downgradient water bodies. Surface soil erosion has been established by the United States Department of Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats. Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean. The construction of single family residences in sensitive watershed areas has been established as a primary cause of erosion and resultant sediment pollution in coastal streams.

In order to ensure that erosion and sedimentation from site runoff are minimized, the Commission requires the applicant to submit a drainage plan, as defined by **Special Condition Four (4)**. **Special Condition Four (4)** requires the implementation and maintenance of a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. Fully implemented, the drainage plan will reduce or eliminate the resultant adverse impacts to the water quality and biota of coastal streams. This drainage plan is fundamental to reducing on-site erosion and the potential impacts to coastal streams. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

In addition, the Commission finds that temporary erosion control measures implemented during construction and excavation on the slope will also minimize erosion and enhance site stability. **Special Condition Two (2)** therefore requires the applicant to implement interim erosion control measures should grading take place during the rainy season. Such measures include stabilizing any stockpiled fill with geofabric covers or other erosion-controlling materials, installing geotextiles or mats on all cut and fill slopes, and closing and stabilizing open trenches to minimize potential erosion from wind and runoff water.

The Commission also finds that landscaping of disturbed areas on the subject site will reduce erosion and serve to enhance and maintain the geologic stability of the site, provided that minimal surface irrigation is required. Therefore, **Special Condition Two (2)** requires the applicant to submit landscaping plans, including irrigation plans, certified by the consulting geologists as in conformance with their recommendations for landscaping of the project site. **Special Condition Two (2)** also requires the applicant to utilize and maintain native and noninvasive plant species consistent with the Restoration/Revegetation Plan submitted pursuant to **Special Condtiion Three (3)** of this permit.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that the use of such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and therefore aid in preventing erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant native species. Increasing urbanization in this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development. Such changes have resulted in the loss of native plant species and the soil retention benefits they offer.

In the case of the subject site, much of the riparian understory consists of non-native and invasive species, including red brome (*Bromus madritensis*), ripgut brome (*Bromus diandrus*), black mustard (*Brassica nigra*), bull mallow (*Malva nicaeensis*) and nasturtium (*Tropaeolum majus*). The applicant proposes to remove non-native and invasive species from the riparian understory and revegetate this area with native species. Restoration of the riparian understory with native plant species will serve to minimize erosion on the subject site. Therefore, in order to ensure that the proposed restoration is implemented in a way that reduces the potential for erosion, **Special Condition Three (3)** requires the applicants to submit, for the review and approval of the Executive Director, a restoration/revegetation plan prepared by a qualified habitat restoration consultant. In order to further ensure site stability and erosion control, **Special Condition Two (2)** requires the disturbed and graded areas of the site to be landscaped with appropriate native plant species, consistent with the Restoration/Revegetation Plan submitted pursuant to **Special Condition Three (3)**.

The applicant proposes to cut 308 cu. yds. of earth on the site, and utilize 156 cu. yds. as fill, thus producing 152 cu. yds. of excess graded material. The Commission finds that stockpiling excavated material may contribute to increased erosion at the site. The Commission also notes that additional landform alteration would result if the excavated material were to be collected

and retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition Five (5)** requires the applicant to remove all excess graded material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit.

Finally, in order to ensure that any future site development is reviewed for its potential to create or contribute to erosion, the Commission finds it necessary to impose **Special Condition Eight (8)**, which requires the applicants to obtain a coastal development permit for any future development on the site, including improvements that might otherwise be exempt from permit requirements. In addition, **Special Condition Nine (9)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

C. Water Quality

New development has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources.

The Carpinteria LCP provides for the protection of water quality. Carpinteria LCP policies require that new development minimize sedimentation and contamination of surface waters, and include drainage devices that are designed to accommodate increased runoff due to development. The LCP also provides policies for the protection of stream corridors, which are discussed in further detail in Section D., Sensitive Habitat.

Section 30231 of the Coastal Act, which is incorporated as a policy of the Carpinteria LCP, states that:

> ***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.***

In addition, the following water quality LCP policies are applicable in this case:

> ***3-18*** ***Provision shall be made to conduct surface runoff waters that will occur as a result of development to stormdrains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development.***
>
> ***3-19*** ***Degradation of the water quality of groundwater basins nearby streams or wetlands shall not result from development of the site. Pollutants such as chemicals, fuels, lubricants, raw sewage and other harmful waste shall not be discharged into or alongside coastal streams or wetlands during construction.***

OSC-6f ***Carry out and maintain all permitted construction and grading within stream corridors in sucha manner so as to minimize impacts on biological resources and water quality such as increased runoff, creek bank erosion, sedimentation, biochemical degradation, or thermal pollution.***

OSC-10 ***Conserve all water resources, and protect the quality of water.***

OSC-10a ***Minimize the erosion and contamination of beaches. Minimize the sedimentation, channelization and contamination of surface water bodies.***

As described in detail in the previous sections, the applicant proposes to construct a two-story, 1,695 sq. ft. single family home with attached 512 sq. ft. garage/workshop, porch, driveway, split-rail fence, garden wall, sidewalk, drainage structures, vegetated bio-swale, restoration of riparian habitat, and 464 cu. yds. of grading (308 cu. yds. cut, 156 cu. yds. fill).

The proposed development will result in an increase in impervious surface at the subject site, which in turn decreases the infiltrative function and capacity of existing permeable land on site. Reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water quality protection policies of the Carpinteria LCP, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The Commission finds that sizing post-construction

structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Four (4)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

In order to further minimize the potential for chemical pollution of Carpinteria Creek and downstream waters, **Special Condition Two (2)** also prohibits the use of insecticides, herbicides, or any toxic chemical substance for landscaping maintenance, except for the purpose of eradicating invasive plant species, where no less environmentally damaging method exists.

Furthermore, erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. In addition, Commission review of any future development on the site is necessary to ensure that any additional development is consistent with the water quality protection policies of the Carpinteria LCP. Therefore, the Commission finds, as detailed in Section B. above, that **Special Conditions Two (2), Three (3), Five (5), Eight (8),** and **Nine (9)** are necessary to ensure the proposed development will not adversely impact coastal waters.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with the applicable policies of the Carpinteria LCP.

D. Environmentally Sensitive Habitat

The Carpinteria LCP provides numerous policies for the protection of environmentally sensitive habitat areas (ESHA). The LCP requires site inspection and habitat mapping, performed by a qualified biologist, of all areas within 250 feet of the ESHA overlay boundary. The LCP requires that the natural qualities of creeks and riparian habitat be protected, and that native plant communities be preserved and enhanced. The LCP prohibits activities that could damage or destroy ESHA.

The Carpinteria LCP contains the following development policies related to protection of ESHA that are applicable to the proposed development:

Section 30231 of the Coastal Act, which is incorporated as part of the Carpinteria LCP, states:

> ***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.***

Section 30240 of the Coastal Act, which is incorporated as part of the Malibu LCP, states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 30107.5 of the Coastal Act defines an environmentally sensitive area as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

In addition, the following LCP policies are applicable in this case:

9-1 ***All parcels designated by the Habitat Area Overlay as shown on the land use maps and parcels within 250 feet of the boundary of such a designation shall be subject to a site inspection by a qualified biologist, to be selected jointly by the City and the applicant. All development plans, grading plans, etc., for these areas shall show the precise location of the habitat(s).***

9-2 ***Prior to issuance of a development permit, all projects shall be found to be in compliance with all applicable habitat protection policies of the land use plan (Policies 9-1 to 9-20).***

9-14 ***When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees. (See also Policies 3-13 to 3-19).***

9-15 ***The minimum buffer strip for natural streams within the City shall be 20 feet from the top of the bank. These minimum buffers may be adjusted by the City on a case-by-case basis after investigation of the following factors:***

- ***a. soil type and stability of the stream corridor***
- ***b. how surface water filters into the ground***
- ***c. types and amount of riparian vegetation and how such vegetation contributes to soil stability and habitat value***
- d. ***slopes of the land on either side of the stream***
- ***e. location of the 100 year floodplain boundary***

9-16 ***No structures shall be located within the stream corridor except: developments where the primary function is the improvement of fish and wildlife habitat; dams; structures necessary for flood control purposes; bridges, when supports are located outside the critical habitat; and pipelines, when no alternative route is feasible.***

9-17	***All development, including dredging, filling, grading, within stream corridors, shall be limited to activities necessary for flood control purposes, bridge construction, water supply projects, or laying of pipelines, when no alternative route is feasible. When such activities require removal of riparian plant species, re-vegetation with local native plants shall be required. Minor clearance of vegetation may be permitted for hiking/biking and equestrian trails.***
9-21	***No development or substantial alteration of natural stream corridors shall be permitted unless the City finds that such action is necessary to protect existing structures and that there are no less environmentally damaging alternative. Where development or alteration is permitted, best mitigations feasible shall be a condition of approval.***
CD-11	***Development should fit quietly into the area's natural and introduced landscape, deferring to open spaces, existing natural features and native and sensitive habitats.***
CD-11a	***Landscape planning shall be respectful of the natural character of the City and enhance existing native plant communities and environmentally sensitive habitat areas.***
CD-12	***Ensure that lighting of new development is sensitive to the character and natural resources of the City and minimizes photopollution to the maximum extent feasible.***
OSC-1	***Protect, preserve, and enhance local natural resources and habitats.***
OSC-1a	***Protect Environmentally Sensitive Habitat Area(s) (ESHA) from development and maintain them as natural open space or passive recreational areas.***
OSC-1b	***Prohibit activities, including development, that could damage or destroy biological resource areas.***
OSC-1, IM1	***In addition to the policies and implementation measures herein, utilize the California Environmental Quality Act (CEQA) to identify and avoid or reduce potential impacts to air and water quality, environmentally sensitive habitats, riparian habitats, marine plants and animals, and other environmental resources.***
OSC-1, IM6	***Determine appropriate methods for the preservation of sites that include ESHA. These methods may include land purchase, tax relief, purchase of development rights, or other methods. Where these methods are not feasible, the city should ensure through permit review that development does not result in any significant disruption of habitat identified on a site or on adjacent sites.***
OSC-6	***Preserve the natural environmental qualities of creekways and protect riparian habitat.***
OSC-6a	***Support the preservation of creeks and their corridors as open space, and maintain and restore riparian habitat to protect the community's water quality, wildlife diversity, aesthetic values, and recreation opportunities.***

OSC-6f ***Carry out and maintain all permitted construction and grading within stream corridors in sucha manner so as to minimize impacts on biological resources and water quality such as increased runoff, creek bank erosion, sedimentation, biochemical degradation, or thermal pollution.***

OSC-7 ***Conserve native plant communities.***

As noted above, the applicants propose to construct a two-story, 1,695 sq. ft. single family home with attached 512 sq. ft. garage/workshop, porch, driveway, split-rail fence, garden wall, sidewalk, drainage structures, vegetated bio-swale, restoration of riparian habitat, and 464 cu. yds. of grading (308 cu. yds. cut, 156 cu. yds. fill). The proposed development is located adjacent to Carpinteria Creek and surrounding riparian habitat which are designated an Environmentally Sensitive Habitat Area (ESHA).

All proposed development is located outside of the ESHA, with the exception of the habitat restoration and an approximately 18 foot length of the 42 inch high split rail fence. (The applicant previously proposed, and received City approval to construct an approximately 80 foot long, 6 inch underground stormwater drainpipe, and an approximately 15 sq. ft. rip-rap energy dissipater within the stream corridor; the applicant now proposes to construct an alternative drainage system outside of the stream corridor.) In addition, an approximately 22 foot length of the fence is located within the 20 foot buffer surrounding the riparian dripline.

The primary function of the fence is to prevent trespass onto the property and human disturbance of the riparian woodland adjacent to Carpinteria Avenue, and thus to improve wildlife habitat consistent with LCP Policy 9-16. Similarly, the purpose of the proposed habitat restoration is the improvement of wildlife habitat. Although the fence does not require ESHA in order to function, and is therefore not a resource dependent use, its minimal footprint, potential benefits to ESHA quality, and negligible adverse impacts make construction of the fence consistent with Section 30240 of the Coastal Act, as incorporated in the Carpinteria LCP, and with the other ESHA protection policies of the Carpinteria LCP.

As noted above, the project site is a 0.45 acre parcel located south of Carpinteria Avenue bounded on three sides by Carpinteria Avenue and two residential streets, Arbol Verde Street and Concha Loma Drive. The parcel is bisected by Carpinteria Creek, which gently descends through the property in a southwesterly direction. The eastern portion of the parcel is nearly level and contains disturbed ruderal grassland and some non-native trees along Arbol Verde Street. West of this area, the site slopes gently toward the southeastern bank of the creek and the creek bed below.

The sloping area and southeastern bank of the creek contains riparian woodland habitat, including mature stands of California Sycamore (*Platanus racemosa)* and Arroyo Willow (*Salix lasiolepis*). The woodland understory is disturbed and contains many non-native species. The creek and riparian woodland is home to special status wildlife, including Steelhead trout (*Oncorhyncus mykiss*), Tidewater goby (*Eucyclogobius newberryi*), Monarch butterfly (*Danaus plexippus*), and Cooper's hawk (*Accipiter cooperii*). The riparian canopy extends past the top of bank an average of approximately 50 feet, although portions of the woodland extend as little as 2 feet and as much as 80 feet. An informal footpath crosses the property at the southeastern limit of the riparian habitat, and is used as a "shortcut" from Carpinteria Avenue to a dirt flood control access way that leads to the creek bottom in the southwestern portion of the site.

The proposed project provides for a minimum 37 foot setback from the top of the stream bank, extending to an average of 55 feet from the top of bank in the center of the parcel, and up to 125 feet in the southern part of the parcel. As shown on the plans approved by the City of Carpinteria, the project provides for a 20 foot setback from the dripline of riparian vegetation, which includes California Sycamore (*Platanus racemosa*) and Arroyo Willow (*Salix lasiolepis*).

As noted above, LCP Policy 9-15 requires a minimum setback of 20 feet from the top of bank of streams, which may be adjusted based on soil type, stability of the stream corridor, surface water infiltration, type and amount of riparian vegetation and its contribution to soil stability and habitat value, slope characteristics, and location of the 100 year flood plain boundary. Using these criteria, the City recommended a 10 foot setback from the riparian dripline. Subsequent to publication of the Final EIR, the project applicant increased the setback to 20 feet from the riparian dripline in order to comply with recommended mitigation measures. The approved project setback is approximately 37 to 125 feet from the top of bank of stream, thus providing a buffer that is significantly larger than the minimum required under LCP Policy 9-15. Furthermore, LCP Policy 9-15 states that the minimum buffer *may* be adjusted by the City on a case-by-case basis, but does not *require* such adjustments to be made.

Application of a 20 foot setback was consistent with statements, made by biologists Darlene Chirman (consultant for the appellants), Mark Holmgren, and Dr. Thelma Schmidhauser in correspondence to the City, that a 20 foot setback was necessary to avoid significant impact to the riparian habitat. Other biologists, including Lawrence Hunt and Rachel Tierney (consultants for the project applicants), and Vince Semonsen, the City Biologist, had concluded that a 10 foot setback from the riparian dripline was adequate to prevent significant impacts.

More recently, the location of the riparian dripline, due to growth of vegetation following the establishment of the 20 foot setback, has been disputed by the applicant and appellants, and the findings of numerous biologists who have examined the site at the request of either side. The appellants contend that a 20 foot setback from the current dripline is necessary to avoid significant impact to the stream corridor. The applicant contends that the current setback is adequate despite growth of the canopy, which is a predictable and desirable result of the passage of time during the approval process. (The dispute regarding the setback is further discussed in Section F. of the May 23, 2002 staff report on the appeal. Primary documents and correspondence are included as exhibits to the May 23, 2002 report, which is attached as **Exhibit 1** of this report).

In order to independently assess the current location of the riparian dripline, Commission staff requested a survey of the dripline be prepared by a licensed surveyor, with the participation of representatives of the applicant and the appellants, as well as Commission staff. The survey, conducted on July 2, 2003 by L. P. Cook & Company, indicates that the growth of riparian vegetation, including California Sycamore (*Platanus racemosa*) and Arroyo Willow (*Salix lasiolepis*), has reduced the setback to approximately 10 feet in some locations. Following publication of the new dripline survey, a qualitative assessment of the areas of new growth was undertaken by representatives of the applicant (including biologist Lawrence Hunt), the appellants, and Commission staff.

Commission staff biologist Dr. John Dixon has reviewed the biological reports and assessments submitted for the project. In a memorandum dated May 8, 2003, Dr. Dixon addressed the setback issue:

> ***In general, I think a 100-foot buffer, measured from the bank of the stream or the edge of riparian vegetation, whichever is greater, should be the default standard for natural streams. However, in urbanized areas, such a wide buffer is often not feasible and often does not make good ecological sense due to the presence of existing development. A wide buffer for a particular property is unlikely to perform a protective function proportional to its width if the adjacent or nearby parcels have development much closer to the stream. In the case of Carpinteria Creek, there are structures present that are within 15-20 feet of the creek bank and within 5 feet of the riparian canopy, according to the final EIR (p. 386)….In view of the existing urban constraints, the opponents to earlier project designs generally recommended that the development be set back at least 50 feet from the bank of Carpinteria Creek and at least 20 feet from the dripline of the riparian vegetation…***

In the May 8, 2003 memorandum, Dr. Dixon analyzed the likely impact of the project on the riparian ESHA as mapped by Lawrence Hunt, consulting biologist to the project applicants, in May 2003. Mr. Hunt noted nine branches, ranging in size from 0.5 to 1.25 inches in diameter, extending approximately 5 to 6 feet beyond the mapped canopy. Based on this information, Dr. Dixon concluded:

> ***If Hunt's recent estimate is accurate, the actual change in canopy is due to some 9 small tree branches extending 5 or 6 feet into the previously established buffer. The resultant marginal increase in the environmental impact of the development due to such change in vegetation is not likely to be significant.***

In addition, at Dr. Dixon's request the canopies in question were surveyed on July 2, 2003. Dr. Dixon's previous memo and the memo containing his response to the survey results are included as **Exhibit 5** of this staff report.

Following the July 2, 2003 survey of the dripline, Dr. Dixon reviewed the new survey and related information, and concluded that

> ***The current mapped dripline appears to be qualitatively the same as was described in the various letters and reports I cited in my May 8, 2003 memo…. The locations where the willows and sycamores have grown since the mapping effort of a few years ago is somewhat different than recently estimated by the various parties, but the amount of increase appears to be about the same as was estimated by Clark in November 2002. The current distance from the surveyed dripline to the eaves of the proposed residence appear to vary from a bit over 20 feet to about ten feet. There is nothing in the new information that would cause me to change the opinions contained in my earlier memo.***

As concluded by Dr. Dixon, increasing the setback would not provide significantly greater protection for the riparian ESHA. Therefore, alternative design measures such as reduction in the size of the residence would not significantly reduce impacts on ESHA. Similarly, no alternative location for the residence exists that would reduce impacts on ESHA. The proposed residence is located on a level area of the site containing non-native ruderal grasses. This area is immediately adjacent to Arbol Verde Street and Concha Loma Drive, and is the only part of the site that is not located in ESHA.

Although no siting or design measures exist that would significantly reduce impacts on ESHA, additional actions can be taken to minimize adverse impacts to ESHA. The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by

new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Carpinteria area.

In the case of the subject site, much of the riparian understory consists of non-native and invasive species, including red brome (*Bromus madritensis*), ripgut brome (*Bromus diandrus*), black mustard (*Brassica nigra*), bull mallow (*Malva nicaeensis*) and nasturtium (*Tropaeolum majus*). The applicant proposes to remove non-native and invasive species from the riparian understory and revegetate this area with native species. Restoration of the riparian understory with native plant species will serve to enhance and protect the native riparian habitat if appropriatey implemented. Therefore, in order to ensure that the proposed restoration is implemented in a way that minimizes impacts to the riparian ESHA, **Special Condition Three (3)** requires the applicants to submit, for the review and approval of the Executive Director, a restoration/revegetation plan prepared by a qualified habitat restoration consultant. In order to further adverse effects to the adjacent riparian habitat, **Special Condition Two (2)** requires the disturbed and graded areas of the site to be landscaped with appropriate native plant species, consistent with the Restoration/Revegetation Plan submitted pursuant to **Special Condition Three (3)**. In order to minimize the potential for chemical pollution of Carpinteria Creek, **Special Condition Two (2)** also prohibits the use of insecticides, herbicides, or any toxic chemical substance for landscaping maintenance, except for the purpose of eradicating invasive plant species, where no less environmentally damaging method exists.

Furthermore, drainage and erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to the riparian ESHA during construction and in the post-development stage. In addition, Commission review of any future development on the site is necessary to ensure that any additional development is consistent with the ESHA protection policies of the Carpinteria LCP. Therefore, the Commission finds, as detailed in Section B. above, that **Special Conditions Two (2), Three (3), Four (4),** and **Five (5)** are necessary to ensure the proposed development will not adversely impact coastal waters.

In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. The subject site contains environmentally sensitive habitat. Therefore, **Special Condition Seven (7)** limits night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward in order to minimize the impacts of unnatural light sources on sensitive wildlife species.

Finally, the Commission finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, to ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the ESHA protection policies of the Carpinteria LCP, **Special Condition Eight (8)**, the future development restriction, has been required. Finally, **Special Condition Nine (9)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with the ESHA protection provisions of the Carpinteria LCP.

E. Visual Resources

The Carpinteria LCP provides for the protection of visual resources, including coastal streams. The LCP requires that new residential development on or adjacent to streams be sited and designed to prevent adverse impacts on the visual quality of the resource. In addition the LCP policies require that new development be compatible with the scale and character of surrounding development, and the city's "small beach town" image.

Section 30251 of the Coastal Act, which is incorporated as a policy of the Carpinteria LCP, states that:

> ***The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.***

In addition, the following LCP policies are applicable in this case:

> ***4-1*** ***Broad unobstructed views from the nearest public street to the ocean, including but not limited to Linden Avenue, Bailard Avenue, Carpinteria Avenue, and U.S. 101, shall be preserved to the extent feasible. In addition, new development that is located on or adjacent to bluffs, beaches, or streams, or adjacent to Carpinteria Marsh shall be designed and sited to prevent adverse impacts on the visual quality of these resources. To preserve views and protect these visual resources, new development shall be subject to all of the following measures:***
>
> ***(a) Provision for clustering development to minimize alterations to topography or to avoid obstruction of views to the ocean.***
> ***(b) Height restrictions to avoid obstruction of existing views of the ocean from the nearest public street.***
> ***(c) In addition to the bluff setback required for safety (Policy 3-4), additional bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Blufftop structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures already impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff's edge than the adjacent structures.***
> ***(d) Special landscaping requirements to mitigate visual impacts.***

CDS5-1 ***Preserve and strengthen the visual and physical connections between the (Concha Loma) subarea, the beach, the downtown and other neighborhoods and districts in the city.***

CD-1 ***The size, scale, and form of buildings, and their placement on a parcel should be compatible with adjacent and nearby properties, and with the dominant neighborhood or district development pattern.***

CD-3 ***The design of the community should be consistent with the desire to protect views of the mountains and the sea (California Coastal Act of 1976 Section 30251).***

CDS5-3 ***Ensure that new development is sensitive to the scale and character of existing neighborhoods, and consistent with the city's "small beach town" image.***

OSC-13 ***Preserve Carpinteria's visual resources.***

The proposed project is located adjacent to Carpinteria Avenue, at the entrance to the Concha Loma neighborhood. A multi-story office building is located across Arbol Verde Street to the east of the project site. One story multi-family and single family residences are located south of the subject site, across Concha Loma Drive. The neighborhood south of Concha Loma Drive was developed in the 1950s and consists largely of one-story single family residences from that era, with an average lot size of approximately .20 acre, and an average floor area of approximately 1,350 sq. ft. However, some of the residences have been converted to multi-family units, and several small apartment complexes are clustered along Concha Loma Drive east of Arbol Verde Street.

The square footage of the proposed residence is approximately 1/3 larger than most nearby single family residences; however, given its location on the periphery of the neighborhood, adjacent to a large office building and in proximity to the row of apartment buildings along Concha Loma Drive, the proposed residence is consistent with the heterogeneous nature of surrounding development. In addition, while the proposed residence includes a 265 sq. ft. second story, the maximum height of the structure is approximately 19 feet, a modest increase in height over that of nearby single family residences.

The project site currently affords views of riparian vegetation, including the scenic sycamore canopy, from Carpinteria Avenue, Arbol Verde Street and Concha Loma Drive. Carpinteria Creek is visible from the Carpinteria Avenue bridge. The proposed residence will be located on the eastern portion of project site, at the intersection of Arbol Verde and Concha Loma Drive. The proposed residence will have no impact on views of the stream itself. The proposed residence will not significantly impact views of the riparian vegetation as seen from Carpinteria Avenue, the main public thoroughfare adjacent to the site. The proposed residence will impact views of the riparian vegetation as seen by westbound traffic on Concha Loma Drive, and from northbound and southbound traffic on Arbol Verde Street. Specifically the residence will block views of the lower approximately 10 to 20 feet of riparian vegetation, including the northernmost willow copse, while leaving the upper half of the sycamore canopy visible.

Commission staff has considered whether alternative proposals for residential development on the subject site exist that would significantly reduce the visual impacts of the project. Given the constraints of the subject site, particularly the requirement for an adequate setback to reduce

impacts to the riparian corridor, no alternative location exists on the subject site. Similarly, design changes, such as reduction in the size of the house or elimination of the 265 sq. ft. second story, would not significantly decrease impacts on views of the riparian canopy.

However, measures can be taken to minimize the visual impacts of the project. Restrictions on the use of outdoor night lighting will help to ensure that the proposed project is sensitive to the character of the adjacent natural area and surrounding neighborhood. Therefore, **Special Condition Seven (7)** restricts the use of outdoor night lighting to the minimum necessary for safety purposes. Visual impacts can be further minimized by the implementation of a landscape plan that employs a native plant palette consistent with the existing riparian canopy, as required by **Special Condition Two (2)**. The Commission also notes that visual impacts will be further mitigated by the implementation of erosion control measures, as required by **Special Conditions Two (2)**, **Three (3)**, **Four (4)**, and **Five (5)**. Implementation of the requirements of these conditions will ensure that the adverse visual effects of obtrusive non-native landscaping and uncontrolled erosion are avoided.

In addition, to ensure that future development of the site is reviewed for potentially adverse effects on coastal visual resources, the Commission finds it necessary to impose **Special Condition Eight (8)**, which requires the applicants to obtain a coastal development permit for any future development of the site, including improvements that might otherwise be exempt from coastal permit requirements. Finally, **Special Condition Nine (9)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

In summary, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with the applicable policies of the Carpinteria LCP.

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmentally Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consi stent with CEQA and the policies of the Coastal Act.